



THE FOURTH JUDICIAL DISTRICT COURT OF THE STATE OF UTAH  
IN AND FOR UTAH COUNTY

EBENEZER G. DEFRIEZ, et al,

Plaintiffs,

-vs-

ASHLEY CENTRAL IRRIGATION COMPANY, et al,

Defendants.

and

ASENITH CHADWICK, et al,

Intervenors,

and

HIGHLINE CANAL COMPANY, ASHLEY VALLEY  
RESERVOIR COMPANY, DRY FORK IRRIGATION  
COMPANY, PITT DITCH COMPANY, DUAYNE T.  
JOHNSON, MORGAN MERKLEY, WILLIAM H.  
HULLINGER, CLARENCE E. JONES, HENRY  
PELTIER and GLEE C. PELTIER, VIRTUS  
McCONKIE and SADIE A. McCONKIE, ARTUS  
CALDWELL, LAWRENCE CALDWELL and UNITED  
STATES BUREAU OF RECLAMATION,

Defendants.

PETITION TO APPOINT  
WATER COMMISSIONER

Civil No. 3197

Comes now the Ashley Upper Irrigation Company, a Corporation, by  
and through its President, Dee Jenkins, one of the parties to the above entitled  
action and on behalf of the owners of the decreed water rights of Ashley Creek  
and its tributaries, and the owners of others entitled to the use of the waters of  
Ashley Creek, and alleges as follows:

1. That in the above entitled action a Decree of the Court was entered  
on November 17, 1897, dividing and setting forth the several and respective  
rights of the parties to the said action in and to the waters of Ashley Creek  
and its tributaries.

2. That since the said date, the rights of the respective parties to the  
said suit have been administered under the direction of this Court through a  
Water Commissioner appointed annually by this Court as provided in the said  
Decree; that the said Decree provides that a Water Commissioner be appointed  
annually by the District Court each year at the request of the parties to said

action; that said Commissioner be authorized, empowered and directed to make division of all the waters of Ashley Creek where the same are taken from the natural channel thereof; and that under his direction there be constructed all dams, weirs, and so forth necessary for the proper and correct measurement and division of the waters covered by said Decree.

3. That since the date of said decree several persons who were not parties to the original action have acquired, developed or claim a right to use some of the waters of Ashley Creek and its tributaries; and that said parties so far as Petitioner can determine have been, by Order of this Court, made parties to this action by an Order dated May 15, 1962.

4. That on the 15th day of May, 1962, by Order of this Court Distribution Engineer of the State Engineer's Office of the State of Utah was appointed Commissioner of the waters of Ashley Creek and its tributaries, which said Commissioner has administered and distributed the waters of Ashley Creek since said time; that since the 15th day of May, 1962, the waters stored in what is known as the Steinkaker Reservoir, a part of the Vernal Unit of the Central Utah Project have been added to the water supply of those persons within the said Vernal Unit and that during the past two irrigation seasons, the various water users have become acquainted with the matter in which the waters of Ashley Creek are to be distributed after the supplemental water stored in the said reservoir is added to their present water supply.

5. At a meeting of the water users of Ashley Creek held March 30, 1964, wherein the following companies or individuals were represented: Primary Users: Ashley Upper Irrigation Company, Ashley Central Irrigation Company, Hardy Ditch Company, Steinkaker Ditch Company, Colton Ditch Company, Island Ditch Company, and Dodds Ditch Company. Other Water Users: Ashley Valley Reservoir Company, Highline Canal Company, Dry Fork Irrigation Company, Mosby Ditch Company, Pitt Ditch Company, it was decided by a majority vote of those present that a Petition would be filed on behalf of the users of Ashley Creek requesting that the distribution engineer of the State Engineer's Office



of the State of Utah be relieved of his responsibilities as Water Commissioner of Ashley Creek and its tributaries and that the above entitled Court be requested to appoint David Rasmussen as Commissioner of the said creek for the period of time beginning April 7, 1964, and ending April 6, 1965; that the said David Rasmussen is competent and qualified to act as water commissioner of the said Ashley Creek due to the fact that he has, under the direction of the Distribution Engineer of the Office of the State Engineer, distributed and administered the waters of Ashley Creek for the past two seasons.

WHEREFORE, Petitioner Prays as follows:

1. That David Rasmussen be appointed as Commissioner of Ashley Creek for the period beginning April 7, 1964 and ending April 6, 1965, or until further order of this Court.
2. That the said Rasmussen be directed to administer and distribute waters of said Ashley Creek in accordance with the Decree of this Court, and the respective rights of the parties hereto as their rights may have been or may be determined.
3. That the said Commissioner shall be directed to name and appoint such deputies as he may need in distributing the water involved in this matter and be authorized to pay reasonable salaries, wages, and automobile mileage to himself and such persons as may be employed in carrying out the provisions of this Decree and Order.
4. That the said proposed Commissioner be directed to immediately submit to this Court for the approval of this Court an estimate of the expenses involved in carrying out the provisions of this Order, said budget to be based upon the respective rights of the users of Ashley Creek as determined by this Court in its Order dated May 15, 1962.
5. That the said proposed Commissioner be directed to confer with the Committee heretofore set up known as the Vernal Area Distribution System of the waters of Ashley Creek and, so far as practical, act in accordance with the recommendations of said Committee.

6. That in all other respects the Decree in this action with its amendments remains the same as it now is.

DATED this 31st day of March, 1964.

ASHLEY UPPER IRRIGATION COMPANY,  
A Corporation, one of the Plaintiffs,

By Arcene Dee Jenkins  
Dee Jenkins

I hereby certify that I mailed a copy of the Foregoing Petition, together with a copy of the Notice to Ashley Upper Irrigation Company, Colton Ditch Company, Steinaker Ditch Company, Ashley Central Irrigation Co., Hardy Ditch Co. Island Ditch Co., Dodds Ditch Co., Rock Point Irrigation Co., Ashley Valley Reservoir Co., Highline Canal Co., Dry Fork Irrigation Co., Mosby Ditch Co., Pitt Ditch Co., Duane T. Johnson, Morgan Merkley, Lester Hullinger, Clarence E. Jones, Rex Gardner, Henry Peltier, Virtus McConkie, Sadie A. McConkie, United States Bureau of Reclamation, Uintah Water Conservancy District, this 2nd day of April, 1964.

Margaret Hall

FILED  
DISTRICT COURT  
U. S. DISTRICT COURT  
APR 2 1964  
M. E. Cogh